



CONSTITUTIONAL LAW
PROFESSOR LORRAINE E. WEINRIB
2003-2004

VOLUME 1

Storage

KE
4218.5
.W45
2003
v.1
c.1

ADRIAN LASKIN LAW LIBRARY

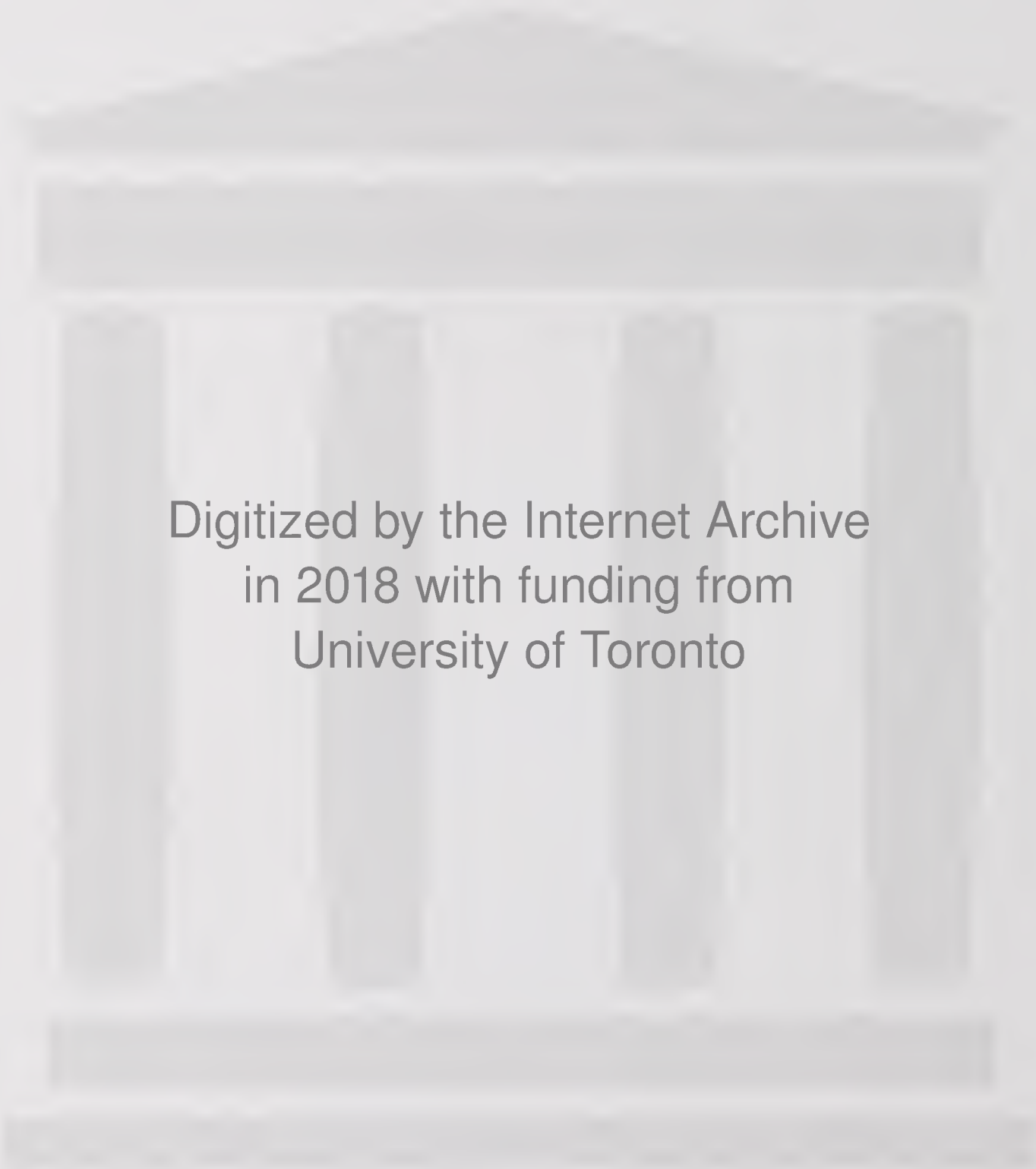
AUG 7 8 2003

FACULTY OF LAW

UNIVERSITY OF TORONTO

CONSTITUTIONAL LAW
PROFESSOR LORRAINE E. WEINRIB
2003-2004

These materials are produced exclusively for classroom use.
Roy Lee, Amanda Heale, Louise James,
Rayna Shienfield and Jennifer Brudner
assisted in the preparation of these materials.



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/constitutionalla01wein_0

CANADIAN CONSTITUTIONAL LAW
PROF. L. WEINRIB 2003-4

PART I: INTRODUCTION

CHAPTER 1: CONSTITUTIONALISM AND CONSTITUTIONAL LAW

John Stuart Mill, <i>On Liberty</i> at 3 ff.	1
Louis Henkin, "Elements of Constitutionalism"	4
Catherine Elliott & Frances Quinn (eds.), <i>English Legal System</i>	11
O. Hood Phillips and P. Jackson, "Written and Unwritten Constitutions"	14
"The Crown"	15
W.I. Jennings, <i>The Law and the Constitution</i>	16

CHAPTER 2:

THE QUASI COLONIAL PERIOD: THE B.N.A. ACT AS CONSTITUENT STATUTE AND THE PRIVY COUNCIL AS ITS AUTHORITATIVE INTERPRETER

<i>British Coal Corporation v. The King</i> , [1935] A.C. 500	18
James W. St. G. Walker, "Quong v. The King"	19
<i>Union Colliery Company of British Columbia v. Bryden</i> , [1899] A.C. 580.....	40
<i>Cunningham and Attorney-General for British Columbia v. Tomey Homma and Attorney-General for the Dominion of Canada</i> , [1903] A.C. 151.....	42
<i>Quong Wing v. The King</i> , 49 S.C.R. 440	44
James W. St. G. Walker, "Quong Wing and Quong Sing"	48
Ian Bushnell, "Reference Re Deportation of Japanese, 1946"	64
Frank Scott, "The Deportation of the Japanese Canadians: An Open Letter to the Press"	68
<i>The King v. Eastern Terminal Elevator Co.</i> , [1925] S.C.R. 434.....	70
V. MacDonald, "The Privy Council and the Canadian Constitution" (1951) 29 C.B.R. 1021...	74

CHAPTER 3: MOVING TOWARDS POLITICAL & CONSTITUTIONAL INDEPENDENCE:
EARLY READINGS OF THE B.N.A. ACT AS A CONSTITUTION

A. INTERNATIONAL RELATIONS

<i>In re the Regulation and Control of Aeronautics in Canada</i> , [1932] A.C. 54.....	77
<i>In re Regulation and Control of Radio Communications in Canada</i> , [1932] A.C. 304.....	81
<i>Reference re Weekly Rest in Industrial Undertakings Act, Minimum Wages Act and Limitations of Hours Act</i> , [1937] 1 D.L.R. 673.....	83
Ian Bushnell, <i>The Captive Court</i> , 253ff.....	85

B. INTERPRETATION: CONSTITUENT STATUTE OR CONSTITUTION?

<i>Rex v. Cyr</i> , [1917] 3 W.W.R. 849	91
<i>Reference re Meaning of the Word "Persons" in s. 24 of the B.N.A. Act</i> , [1928] S.C.R. 276 – "the Persons Case"	97
<i>Lord Brougham's Act</i> , 1850 ("An Act for shortening the language...").....	101
<i>Edwards et al. v. Attorney-General for Canada et al.</i> , [1930] A.C. 124 – "the Persons Case"	102
<i>A.G. Ontario v. A.G. Canada</i> , [1947] A.C. 127	106

PART II:

THE RELATIONSHIP BETWEEN THE INDIVIDUAL, THE GROUP AND THE STATE

CHAPTER 4: PRE-CHARTER RIGHTS PROTECTION

A. THE IMPLIED BILL OF RIGHTS: ADJUDICATING THE TEMPLATE OF LIBERAL DEMOCRACY

Bushnell, "The Implied Bill of Rights"	109
Sandra Djwa, <i>The Politics of the Imagination: A Life of F.R. Scott</i>	112
<i>Roncarelli v. Duplessis</i> , [1959] S.C.R. 121	118
Ian Bushnell, Note on <i>Alberta Statutes Reference</i>	125
<i>Reference re Alberta Statutes</i> , [1938] S.C.R. 100.....	126
<i>Winner v. S.M.T. (Eastern) Ltd.</i> , [1951] S.C.R. 887.....	129
<i>Saumur v. City of Quebec and Attorney-General of Quebec</i> , [1953] 4 D.L.R. 641.....	131
<i>Switzman v. Elbling and Attorney-General of Quebec</i> , [1957] 7 D.L.R. (2d) 337	135
<i>Attorney-General (Canada) and Dupond v. Montreal</i> , [1978] 2 S.C.R. 770.....	141

B. CANADIAN BILL OF RIGHTS: LEGISLATIVE SUPREMACY AND RIGHTS PROTECTION

Bushnell, "The Canadian Bill of Rights"	145
James G. Snell and Frederick Vaughan, <i>The Supreme Court of Canada: History of the Institution</i> (Toronto: University of Toronto Press, 1985) at 218ff.	147
<i>The Canadian Bill of Rights</i> , S.C. 1960, c. 44	151
<i>The Queen v. Drybones</i> , [1970] S.C.R. 282.....	152
<i>Attorney-General of Canada v. Lavell—Isaac v. Bedard</i> , [1974] S.C.R. 1349.....	155
<i>Bliss v. Attorney-General of Canada</i> , [1979] 1 S.C.R. 183.....	161
Note on <i>Authorson</i> , SCC 2003.....	164

CHAPTER 5: INTRODUCTION TO THE CHARTER

A. ADOPTION OF THE CHARTER

B. THE LEGAL FRAMEWORK OF THE CHARTER

CHAPTER 6: DEMOCRATIC RIGHTS (CHARTER S. 3-5)

CHAPTER 7: FREEDOM OF RELIGION AND CONSCIENCE (Charter s. 2(a))

A. Religion and Morality in the Public Sphere

B. Minority Religion in the Schools: The Confederation Compromise

C. Religion and the Private Sphere

CHAPTER 8: LIFE, LIBERTY & SECURITY OF THE PERSON (Charter s. 7)

CHAPTER 9: FREEDOM OF EXPRESSION (Charter s. 2(b))

A. Introduction

B. Political Expression

C. Commercial Speech

D. Hate Speech

E. Pornography

CHAPTER 10: EQUALITY (Charter s. 15)

**PART III:
ABORIGINAL RIGHTS AND SELF-GOVERNMENT**

CHAPTER 11: ABORIGINAL RIGHTS UNDER THE 1982 AMENDMENTS S

A. Introduction

B. S. 35(1): Aboriginal Rights

C. Aboriginal Self-Government

PART IV: MODERN FEDERALISM

CHAPTER 12: INTRODUCTION TO FEDERALISM

CHAPTER 13: CRIMINAL LAW & MORALITY

CHAPTER 14: PEACE, ORDER AND GOOD GOVERNMENT (POGG)

CHAPTER 15: PARAMOUNTCY

PART VII: THE SUPREME COURT OF CANADA AS A CONSTITUTIONAL COURT

CHAPTER 16: CONSTITUTIONAL PERMANENCE, CONSTITUTIONAL CHANGE

